



Virginia Department of Planning and Budget **Economic Impact Analysis**

9 VAC 5-80; 85 – Permits for Stationary Sources; Permits for Stationary Sources of Pollutants Subject to Regulation
Department of Environmental Quality
August 6, 2014

Summary of the Proposed Amendments to Regulation

The Air Pollution Board (Board) proposes to 1) amend the definition of "baseline actual emissions" to allow the use of a 10-year lookback period rather than current 5-year period, 2) amend the definition of "baseline actual emissions" to allow the use of different lookback periods for different regulated NSR pollutants, 3) amend plantwide applicability limits (PAL) requirements such that a PAL effective period is for 10 years rather than current 5 years, and 4) amend the definition of "emissions unit" and add a definition of "replacement unit" to enable the use of the baseline actual emissions of the unit being replaced and the projected actual emissions of the replacement unit.

Result of Analysis

There is insufficient data to accurately compare the magnitude of the benefits versus the costs. Detailed analysis of the benefits and costs can be found in the next section.

Estimated Economic Impact

The proposed changes will make certain elements of the major new source review (NSR) program consistent with the U.S. Environmental Protection Agency (EPA) regulations. More specifically, the Board proposes to 1) amend the definition of "baseline actual emissions" to allow the use of a 10-year lookback period rather than current 5-year period, 2) amend the definition of "baseline actual emissions" to allow the use of different lookback periods for different regulated NSR pollutants, 3) amend plantwide applicability limits (PAL) requirements such that a PAL effective period is for 10 years rather than current 5 years, and 4) amend the definition of "emissions unit" and add a definition of "replacement unit" to enable the use of the

baseline actual emissions of the unit being replaced and the projected actual emissions of the replacement unit. The Virginia Manufacturers Association has petitioned the Board for these changes.

The proposed changes will provide more flexibility to the permit applicants. For example, being able to use a 10-year lookback period will allow the regulants to pick more favorable historical emissions data to establish their baseline. Similarly, allowing different lookback periods for different pollutants will allow the regulants to pick more favorable historical emissions data to establish their baseline. Extending the PAL's effective period from 5 to 10 years will make them more attractive and provide more flexibility to the regulants.

The additional flexibility may reduce the number of permit applications and revisions. A reduction in the number of applications would provide administrative cost savings to the affected entities and the Department of Environmental Quality (DEQ), reduce business uncertainty, and allow sources to respond more quickly to changing market conditions. In addition, the proposed changes will conform to federal regulations which may produce additional benefits by reducing potential for confusion and/or by improving consistency.

There is uncertainty regarding the potential impact on emissions. On one hand, more favorable lookback periods may lead to an increase in baseline emissions and consequently an increase in permit limits. On the other hand, more favorable PAL periods may encourage reduction in emissions.

Businesses and Entities Affected

Approximately 300 sources may be eligible to utilize the proposed version of NSR. Of these sources, some or all of them may avail themselves of some or all of the elements of the regulations. However, the specific number, type, and size of sources to be affected by the regulations is impossible to predict, as such a prediction must approximate the need and ability of sources to make specific plant-by-plant modifications, which depend on local, national, and global economies as well as by a source's individual, plant-specific needs. Similarly, PAL program elements are optional. The ability to utilize certain elements of the regulations depend on a source's ability to calculate and provide certain types of data over particular periods of time, to be capable of performing certain types of testing and monitoring, and many other

requirements that a source may or may not be able to undertake. In short, there is no reliable estimate regarding the number of affected entities.

Localities Particularly Affected

The proposed regulation applies throughout the Commonwealth.

Projected Impact on Employment

A reduction in the number of permit applications would reduce demand for administrative labor both by the affected sources and by DEQ while added flexibility would increase labor demand if it leads to increased business activity. It is not known if any of the potential effects will be significant.

Effects on the Use and Value of Private Property

It is not known if any of the potential effects will be significant. Consequently, the potential positive impact on the asset value of affected entities may or may not be significant.

Small Businesses: Costs and Other Effects

Some of the affected sources may be small businesses. The costs and other effects on them are the same as discussed above.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed changes are not anticipated to have an adverse impact on small businesses.

Real Estate Development Costs

No significant impact on real estate development costs is expected.

Legal Mandate

General: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order Number 17 (2014). Section 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to:

- the projected number of businesses or other entities to whom the proposed regulation would apply,
- the identity of any localities and types of businesses or other entities particularly affected,
- the projected number of persons and employment positions to be affected,
- the projected costs to affected businesses or entities to implement or comply with the regulation, and

- the impact on the use and value of private property.

Small Businesses: If the proposed regulation will have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include:

- an identification and estimate of the number of small businesses subject to the proposed regulation,
- the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents,
- a statement of the probable effect of the proposed regulation on affected small businesses, and
- a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

Additionally, pursuant to § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules (JCAR) is notified at the time the proposed regulation is submitted to the *Virginia Register of Regulations* for publication. This analysis shall represent DPB's best estimate for the purposes of public review and comment on the proposed regulation.

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Town Hall ID: 4192/6987